

BEFORE THE FEDERAL ELECTION COMMISSION

**ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT**

MUR: 7201

Respondents: Ted Cruz for Senate, and
Bradley S. Knippa, as treasurer
(collectively the "Committee")

Complaint Receipt Date: November 29, 2016

Response Date: January 31, 2017

EPS Rating:

**Alleged Statutory/
Regulatory Violations:** None

The Complaint alleges that on September 23, 2016, after Ted Cruz endorsed Donald Trump for President, the Complainant called the Committee to cancel her scheduled monthly contributions to the Committee. Despite receiving multiple phone calls from the Committee reassuring the Complainant that the monthly contributions would be canceled, two more monthly contributions were transferred from the Complainant's bank account to the Committee.¹ The Committee responds that a third party vendor was responsible for managing recurring contributions, and that the Committee had confirmed that, as of date of the response, the recurring contributions had been canceled.²

The Act provides that any person who believes that a violation of the Act or Commission regulations has occurred may file a complaint with the Commission that describes a violation over

¹ While both the Complainant and Committee acknowledge that the Complainant made contributions, neither party provides specific transaction information or states the amounts at issue. A review of the Committee's reports does not reveal any itemized contributions from the Complainant during the 2015-2016 election cycle. However, authorized committees are only required to identify persons (other than political committees) who make contributions to the reporting committee during the reporting period if the contribution or contributions have an aggregate amount or value in excess of \$200 within the election cycle. 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(4)(i). Thus, it is possible that the Complainant's contributions did not exceed the reporting threshold and were therefore not itemized.

² In Advisory Opinion 1989-26, the Commission approved the use of automatic fund transfer from a contributor's bank account to a candidate committee as a means to facilitate the making of contributions.

which the Commission has jurisdiction.³ The Complainant, who concedes she initially authorized the recurring contributions, does not appear to describe such a violation,⁴ and the Committee has confirmed that Complainant's recurring contributions have been canceled.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the indeterminate amount at issue, and the lack of available information that might support an allegation that the Committee violated the Act, we recommend that the Commission dismiss the complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

³ 52 U.S.C. § 30109(a)(1); 11 C.F.R. § 111.4(a)-(d).

⁴ The activity described, if true, does not appear to violate a provision of the Act. Construing the Complaint liberally, it potentially implicates 11 C.F.R. § 103.3(b), which governs the handling of contributions that are excessive or present genuine questions as to whether they may be prohibited under the Act. However, there is no information suggesting that the contributions here were excessive or prohibited. Further, the Complainant does not claim to have requested a refund, *see* 11 C.F.R. § 102.9(e)(3), does not claim the Committee owes her a debt, *see* 52 U.S.C. § 30104(b)(8), 11 C.F.R. § 116.1(d), and does not claim that the Committee made fraudulent misrepresentations in its solicitation of funds, *see* 52 U.S.C. § 30124(b), 11 C.F.R. § 110.16(b).

